

LEGISLATIVE BILL 516

Approved by the Governor May 25, 2001

Introduced by Smith, 48; Aguilar, 35; Bourne, 8; Brown, 6; Bruning, 3; Burling, 33; Byars, 30; Connealy, 16; Coordsen, 32; Dierks, 40; Engel, 17; Erdman, 47; Foley, 29; Hartnett, 45; Janssen, 15; Kruse, 13; Kremer, 34; Landis, 46; Maxwell, 9; Dw. Pedersen, 39; Preister, 5; Raikes, 25; Redfield, 12; Schimek, 27; Suttle, 10; Thompson, 14; Wehrbein, 2

AN ACT relating to real property; to amend sections 68-1603, 68-1604, 68-1605, 68-1607, and 76-902, Reissue Revised Statutes of Nebraska, and section 76-903, Revised Statutes Supplement, 2000; to change provisions relating to the Homeless Shelter Assistance Trust Fund Act; to establish an advisory committee; to change funding provisions relating to the Affordable Housing Trust Fund; to provide an exemption to the documentary stamp tax as prescribed; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 68-1603, Reissue Revised Statutes of Nebraska, is amended to read:

68-1603. For purposes of the Homeless Shelter Assistance Trust Fund Act, department shall mean the Department of ~~Economic Development~~ Health and Human Services.

Sec. 2. Section 68-1604, Reissue Revised Statutes of Nebraska, is amended to read:

68-1604. The Homeless Shelter Assistance Trust Fund is hereby created. The fund shall include the proceeds raised from the documentary stamp tax and remitted for such fund pursuant to section 76-903. ~~All money raised for the Homeless Shelter Assistance Trust Fund Act shall be~~ Money remitted to such fund and earmarked shall be used by the department (1) for grants to eligible shelter providers as set out in section 68-1605 for the purpose of assisting in the alleviation of homelessness, to provide temporary and permanent shelters for homeless persons, to encourage the development of projects which link housing assistance to programs promoting the concept of self-sufficiency, and to address the needs of the migrant farmworker and (2) to aid in defraying the expenses of administering the Homeless Shelter Assistance Trust Fund Act, which shall not exceed fifty thousand dollars in any fiscal year.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 3. Section 68-1605, Reissue Revised Statutes of Nebraska, is amended to read:

68-1605. (1) The department shall use the funds in the Homeless Shelter Assistance Trust Fund to finance grants for projects or programs that provide for persons or families with special housing needs.

(2) Projects and programs to which funds shall be provided include eligible community, neighborhood-based, housing-assistance organizations, institutions, associations, and societies or corporations that:

(a) Are exempt from taxation under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01;

(b) Do not discriminate on the basis of age, religion, sex, race, color, or national origin;

(c) Provide ~~twenty-four-hour~~ residential housing for at least eight hours of every twenty-four-hour period; and

(d) ~~Conduct an annual certified external audit; and~~

(e) Operate a drug-free premises.

(3) ~~The housing advisory committee established pursuant to section 81-1281 shall~~ department shall establish an advisory committee consisting of individuals and groups involved with housing issues, in particular those pertaining to persons or families with special housing needs, to advise and assist the department in establishing criteria, priorities, and guidelines for eligibility requirements, application requirements and dates, public notification, and monitoring and shall assist the department in adopting and promulgating rules and regulations for providing grants from the fund.

(4) An application submitted by an organization representing a number of eligible applicants may be considered even though the representing

organization may itself not qualify under this section.

(5) In making grants pursuant to the Homeless Shelter Assistance Trust Fund Act, the department shall consider, but not be limited to, the following factors:

(a) The number of night-lodging units provided by the applicant as measured by the number of persons housed per night;

(b) ~~The number of meals provided by the applicant~~ Participation by the applicant in community planning processes and activities aimed at preventing and alleviating homelessness;

(c) Other verifiable units of service provided by the applicant; and

(d) The geographic distribution of funds.

Sec. 4. Section 68-1607, Reissue Revised Statutes of Nebraska, is amended to read:

68-1607. ~~All applications for grants shall be accompanied by a certified independent audit for the immediately preceding fiscal year, and recipients~~ Recipients of grant money shall, upon request, submit to the department records for verification of the information included on applications submitted for grants from the Homeless Shelter Assistance Trust Fund.

Sec. 5. Section 76-902, Reissue Revised Statutes of Nebraska, is amended to read:

76-902. The tax imposed by section 76-901 shall not apply to:

(1) Deeds recorded prior to November 18, 1965;

(2) Deeds to property transferred by or to the United States of America, the State of Nebraska, or any of their agencies or political subdivisions;

(3) Deeds which secure or release a debt or other obligation;

(4) Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded but which do not extend or limit existing title or interest;

(5)(a) Deeds between husband and wife, or parent and child, without actual consideration therefor, and (b) deeds to or from a family corporation, partnership, or limited liability company when all the shares of stock of the corporation or interest in the partnership or limited liability company are owned by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, and their spouses, for no consideration other than the issuance of stock of the corporation or interest in the partnership or limited liability company to such family members or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership or limited liability company. In order to qualify for the exemption for family corporations, partnerships, or limited liability companies, the property shall be transferred in the name of the corporation or partnership and not in the name of the individual shareholders, partners, or members;

(6) Tax deeds;

(7) Deeds of partition;

(8) Deeds made pursuant to mergers, consolidations, sales, or transfers of the assets of corporations pursuant to plans of merger or consolidation filed with the office of Secretary of State. A copy of such plan filed with the Secretary of State shall be presented to the register of deeds before such exemption is granted;

(9) Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

(10) Cemetery deeds;

(11) Mineral deeds;

(12) Deeds executed pursuant to court decrees;

(13) Land contracts;

(14) Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest;

(15) Deeds of distribution executed by a personal representative conveying to devisees or heirs property passing by testate or intestate succession;

(16) Deeds transferring property located within the boundaries of an Indian reservation if the grantor or grantee is a reservation Indian;

(17) Deeds transferring property into a trust if the transfer of the same property would be exempt if the transfer was made directly from the grantor to the beneficiary or beneficiaries under the trust. No such exemption shall be granted unless the register of deeds is presented with a signed statement certifying that the transfer of the property is made under such circumstances as to come within one of the exemptions specified in this

section and that evidence supporting the exemption is maintained by the person signing the statement and is available for inspection by the Department of Revenue;

(18) Deeds transferring property from a trustee to a beneficiary of a trust;

(19) Deeds which convey property held in the name of any partnership or limited liability company not subject to subdivision (5) of this section to any partner in the partnership or member of the limited liability company or to his or her spouse;

(20) Leases; ~~or~~

(21) Easements; or

(22) Deeds which transfer title from a trustee to a beneficiary pursuant to a power of sale exercised by a trustee under a trust deed.

Sec. 6. Section 76-903, Revised Statutes Supplement, 2000, is amended to read:

76-903. The Tax Commissioner shall design such stamps in such denominations as in his or her judgment will be the most advantageous to all persons concerned. When any deed subject to the tax imposed by section 76-901 is offered for recordation, the register of deeds shall ascertain and compute the amount of the tax due thereon and shall collect such amount as a prerequisite to acceptance of the deed for recordation. If a dispute ~~shall arise~~ arises concerning the taxability of the transfer, the register of deeds shall not record the deed until the disputed tax is paid. If a disputed tax has been paid, the taxpayer may file for a refund pursuant to section 76-908. The taxpayer may also seek a declaratory ruling pursuant to rules and regulations adopted and promulgated by the Department of Revenue. From each one dollar and seventy-five cents of tax collected pursuant to section 76-901, the register of deeds shall retain fifty cents to be placed in the county general fund and shall remit the balance to the State Treasurer who shall credit ~~(1) prior to January 1, 1998, one dollar of such amount to the state General Fund and twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund, (2) on and after January 1, 1998, and prior to January 1, 2003, one dollar of such amount to the Affordable Housing Trust Fund and twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund. 7 and (3) on and after January 1, 2003, one dollar of such amount to the state General Fund and twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund.~~

Sec. 7. Sections 5 and 8 of this act become operative on October 1, 2001. The other sections of this act become operative on their effective date.

Sec. 8. Original section 76-902, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 9. Original sections 68-1603, 68-1604, 68-1605, and 68-1607, Reissue Revised Statutes of Nebraska, and section 76-903, Revised Statutes Supplement, 2000, are repealed.